

BRETT A. SHUMATE
Assistant Attorney General
Civil Division
ERIC J. HAMILTON
Deputy Assistant Attorney General
JOSEPH E. BORSON
Assistant Branch Director
KATHRYN BARRAGAN (D.C. Bar No. 90026294)
Trial Attorney, U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, N.W.
Washington, D.C. 20005
Tel.: (202) 598-7696
Email: kathryn.e.barragan@usdoj.gov
JASON ALTABET (Md. Bar No. 2211280012)
Trial Attorney, U.S. Department of Justice
Tel.: (202) 305-0727
Email: Jason.k.altabet2@usdoj.gov

Attorneys for United States

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

Pursuant to Civil Local Rule 7-11 and Federal Rule of Civil Procedure 6(b)(1)(A), Defendants hereby move the Court for an order staying certain obligations imposed upon it by the Court’s Preliminary Injunction Order dated 9/22/2025, ECF No. 134, specifically to stay for 7 additional days the National Institutes of Health’s (“NIH”) obligation to reinstate grants that have not yet been reinstated, and the Court’s scheduling order dated 9/9/2025, ECF No. 125, specifically resetting the

1 deadline for NIH to produce an administrative record to 21 business days following the end of the lapse
 2 in appropriations. Plaintiffs do not oppose this relief presuming that all deadlines following NIH's
 3 production of an administrative record are extended commensurately.

4 1. At midnight on September 30, 2025, the appropriations act that had been funding the
 5 Department of Justice expired and appropriations to the Department lapsed. The same is true for other
 6 Executive agencies, including the federal Defendants. The Department does not know when funding
 7 will be restored by Congress.

8 2. The Anti-Deficiency Act, 31 U.S.C. §1341, as construed by the Attorney General,
 9 provides that in the absence of appropriated funds no obligation can be incurred except for the protection
 10 of life and property, the orderly suspension of operations, or as otherwise authorized by law. Absent an
 11 appropriation, Department of Justice attorneys and employees of the Defendant agencies are prohibited
 12 from working, even on a volunteer basis, "except for emergencies involving the safety of human life or
 13 the protection of property." 31 U.S.C. § 1342. An officer or employee of the United States who violates
 14 31 U.S.C. § 1341(a) (obligate/expend in excess or advance of appropriation), § 1342 (voluntary services
 15 prohibition), or § 1517(a) (obligate/expend in excess of an apportionment or administrative subdivision
 16 as specified in an agency's regulations) "*shall* be subject to appropriate administrative discipline
 17 including, when circumstances warrant, suspension from duty without pay or removal from office." 31
 18 U.S.C. §§ 1349(a), 1518 (emphasis added).

19 3. Undersigned counsel expects to be furloughed for the duration of the lapse in
 20 appropriations.

21 4. In addition, the work of employees from defendant agency NIH is also necessary. As
 22 noted in Defendants' status report dated 9/29/2025, NIH anticipated that it needs to review 9 remaining
 23 non-UC grants to determine UC researcher involvement. ECF No. 138 at 1-2. NIH represents that its
 24 grants office staff are furloughed thereby impeding those efforts.

25 5. The Department of Defense ("DoD") is not seeking an additional stay of its obligations.
 26 DoD believes that its exempt staff can fully meet DoD's reinstatement obligations, or come very close to
 27 doing so, by October 17. DoD accordingly plans to file a status report with the Court on October 17 per
 28 FED. DEFS' SECOND STAY MOTION
 CASE NO. 25-CV-4737

1 the Court's recent order. ECF No. 141.

2 6. Undersigned counsel therefore requests a stay of the Court's Preliminary Injunction
3 Order dated 9/22/2025, ECF No. 134, insomuch as it requires specifically for NIH to reinstate
4 terminated grants that have not yet been reinstated, for 7 additional days. The Government is not
5 seeking to stay the preliminary injunction orders generally.

6 7. Defendant NIH further requests that the Court reset the deadline for production of its
7 administrative record to 21 business days following the end of the lapse in appropriations—the deadline
8 is currently set for October 24. If no lapse had occurred, NIH would have had 23 calendar days or 17
9 business days to produce its administrative record.

10 8. Good cause supports resetting NIH's deadline. NIH expects to be under substantial
11 pressure following the end of the lapse to deal with deadlines and work that is accruing as the shutdown
12 continues. NIH's grant office consists of less than five individuals who will have to work with NIH's
13 Office of General Counsel on preparing the administrative record alongside all the other work that will
14 have to commence after the lapse concludes. Moreover, NIH had to prepare for the commencement of
15 the lapse before the team was furloughed which further reduced its ability to prepare the administrative
16 record.

17 9. In light of the foregoing, Plaintiffs are unopposed to NIH's request to reset the deadline
18 for production of its administrative record to 21 business days following the end of the lapse in
19 appropriations so long as all subsequent deadlines are extended commensurately. Defendants agree that
20 deadlines should be extended in such a manner to avoid prejudice to Plaintiffs and to ensure the orderly
21 continuation of litigation in this matter. Defendants propose that the Parties file, within 7 days of the
22 end of the lapse in appropriations, a stipulation resetting all additional deadlines in this matter in
23 accordance with the above formula for extension.

24 10. Although this Court has authority to extend or stay these deadlines without a formal
25 motion or notice to opposing counsel, *see Fed. R. Civ. P. 6(b)(1)(A)*, undersigned counsel contacted
26 Plaintiffs' counsel on October 8, 2025, and requested Plaintiffs' position on a limited stay of certain
27 deadlines in this case. *See Decl. of Jason Altabet (Altabet Decl.) ¶ 3.* Plaintiffs' counsel graciously
28 FED. DEFS' SECOND STAY MOTION
CASE NO. 25-CV-4737

1 stated that Plaintiffs would not oppose an additional 7-day stay as set forth above and the resetting of
 2 NIH's deadline to produce an administrative record subject to the extension of deadlines set forth above.
 3 Altabet Decl. ¶ 3.

4 11. If this motion for a stay is granted, and the lapse in appropriations continues for more
 5 than 7 days, undersigned counsel expects to return to the Court to advise on whether additional time
 6 would be needed in consultation with Plaintiffs.

7 Therefore, although we greatly regret any disruption caused to the Court and the other litigants,
 8 the Government hereby moves for a stay of the Court's Preliminary Injunction Order dated 9/22/2025,
 9 ECF No. 134, and the Court's scheduling order dated 9/9/2025, ECF No. 125, insomuch as they require
 10 specifically for NIH to reinstate terminated grants that have not yet been reinstated, until Department of
 11 Justice attorneys and other personnel of NIH are permitted to resume their usual functions, and resetting
 12 the deadline for NIH to produce its administrative record to 21 business days following the end of the
 13 lapse in appropriations, alongside an extension of the subsequent deadlines to match the extension.

14
 15 DATED: October 9, 2025

Respectfully submitted,

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 17 BRETT A. SHUMATE
 Assistant Attorney General
 Civil Division

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 19 ERIC J. HAMILTON
 Deputy Assistant Attorney General

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 21 JOSEPH E. BORSON
 Assistant Branch Director

22
 23 /s/ Jason Altabet

24
 25 JASON ALTABET (Md. Bar No. 2211280012)
 Trial Attorney, U.S. Department of Justice
 Tel.: (202) 305-0727
 Email: jason.k.altabet2@usdoj.gov

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 27 FED. DEFS' SECOND STAY MOTION
 CASE NO. 25-CV-4737

1 KATHRYN BARRAGAN (D.C. Bar No. 90026294)
2 Trial Attorney, U.S. Department of Justice
3 Civil Division, Federal Programs Branch
4 1100 L Street, N.W.
5 Washington, D.C. 20005
6 Tel.: (202) 598-7696
7 Email: kathryn.e.barragan@usdoj.gov

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11 *Attorneys for United States*
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